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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,234	01/17/2002	Ulrich Mueller	50512	8185

26474 7590 12/17/2002
KEIL & WEINKAUF
1350 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

EXAMINER

VOLLANO, JEAN F

ART UNIT PAPER NUMBER

1621

DATE MAILED: 12/17/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,234

Applicant(s)

MUELLER ET AL.

Examiner

Jean F. Vollano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 7-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Priority

1. The instant application is a 371 of PCT/EP00/07003 filed 7/21/2000, now WO01/07447.

Receipt is acknowledged of papers (Germany 19934599.6 filed 7/23/1999) submitted under 35 U.S.C. 119(a)-(d) by the International Bureau (Rule 17.2(a)), which papers have been placed of record in the file.

2. Claims 7-24 are pending.

Specification

3. The disclosure is objected to because of the following informalities: on page 6 line 13 there is a list of zeolite structures ZSM-48 type etc and “ □-zeolite”. There seems to be something missing or is the □ suppose to be there. Please either correct or clarify .

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Claim Rejections - 35 U.S.C. § 112

4. Claims 11-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 11 -14 have the limitation of "structure types ABW, ACO, AEI, AEN," There are about 100 designations which have 3 letters. It is unclear what the metes and bounds of these letters are. They are supposedly structural types. It is not clear if the ABW is supposedly a trade name or if it is an abbreviation of three words that begin with A and B and W. An on line search in the registry files found that some of these symbols have no hits. Others represent DNA etc sequences and some are dyes etc. A search in chem abs for some terms and zeolite gave hits and others such as the search below gave 0 hits.

s zeolite and goo

78216 ZEOLITE

78017 ZEOLITES

94194 ZEOLITE

(ZEOLITE OR ZEOLITES)

78 GOO

78 GOOS

156 GOO

(GOO OR GOOS)

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L63 0 ZEOLITE AND GOO

Even when there are hits they may not be what is expected. The term zeolite and ter was searched and there was one hit which gave the following:

ACCESSION NUMBER: 1988:76931 CAPLUS

DOCUMENT NUMBER: 108:76931

TITLE: Crosslinking of soft or hard, white or colored,
cellular or noncellular rubber or polyolefin products
in microwave ovens

INVENTOR(S): Karger-Kocsis, Jozsef; Schober, Miklos; Kozma, Balazs;
Gonda, Karoly; Nadudvary, Jozsef, Mrs.

DOCUMENT TYPE: Patent

LANGUAGE: Hungarian

PATENT INFORMATION:

PATENT NO.	KIND	DATE	APPLICATION NO.	DATE
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HU 41425	A2	19870428	HU 1985-135	19850114
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HU 202896	B	19910429		
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AB Zeolites and/or Al₂O₃ are used as dielec.-heating promoters in
the crosslinking of the title products in microwave ovens. Thus, a compn.
contg. 120 parts Dutral Ter 537/E2 (EPDM rubber contg. 50% oil),

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50 parts Dutral Ter 334 (EPDM rubber), 20 parts natural zeolite, and std. vulcanization additives was heated at 180-190.degree. in a 5-kW, 2.45-GHz ultrahigh-frequency app. at 60% power output to give a vulcanizate with tensile strength >10 MPa, breaking elongation >550%, 100% modulus 1.1 MPa, and Shore A hardness 30.

The claims must point out the metes and bounds of what is being claimed in the instant invention. The specification does not define these three letter codes and it is unclear what exactly they are suppose to represent in the claim limitation.

The claim is confusing as written as to exactly what is trying to be claimed in the instant invention.

Claim Rejections - 35 U.S.C. § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 7-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Felthouse (US 4,582,650).

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Felthouse discloses a process for the oxidation of N-phosphonomethyliminodiacetic acid to give N-phosphonomethylglycine (see abstract and examples).

Felthouse discloses that the oxidant is a molecular oxygen containing gas which is defined as any gaseous mixture containing molecular oxygen with one or more diluents which are not reactive. Examples are air, oxygen, oxygen diluted with an inert gas etc (column 5, lines 10-21).

Felthouse et al discloses that the heterogeneous catalyst comprises aluminosilicates, zeolites which include mordenite (which is a naturally occurring sodium aluminum silicate) zeolite Y which is called high silica) etc.

When Felthouse et al discloses that the catalyst contains a noble metal complex with such metals as Pt, Rh, Ir, Pd, Ru from group VIII (a) then the claims are fully anticipated.

Claim Rejections - 35 U.S.C. § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7-11 and 20-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Felthouse (US 4,582,650) in view of applicant's admission.

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The rejection over Felthouse is substantially the same as supra.

Felthouse does not teach the regeneration of the catalyst and reuse thereof in the process.

Applicant admits that "For the regeneration of the catalyst used according to the present invention, it is in principle possible to use all processes known from the prior art for regenerating silicate containing catalysts, in particular zeolite catalysts" (specification page 10 lines 4-6).

The instant specification then cites some specific examples of prior art methodology from pages 10-11.

It is also well known by one of ordinary skill in the art that if the catalyst can be regenerated then it can be used over again in the same process. There is a great motivation for reusing a regenerated catalyst in that the expensive of buying a new catalyst for the reaction and the expense of disposing of the catalyst (especially a precious metal catalyst) is eliminated. The motivation is also that the regeneration according to the specification's prior art references is easily accomplished by heating the catalyst at high temperatures in the presence of gas stream containing oxygen.

It would have been obvious to one of ordinary skill in the art to have used the process of Felthouse to prepare N-phosphonomethylglycine by oxidation of N-phosphonomethyliminodiacetic acid in the presence of a heterogeneous catalyst which after partial deactivation can be regenerated by known prior art methods as taught in the instant specification and then reused to lower the cost of the process and avoid having to dispose of precious metal waste.

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9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 5,962,729 teaches a method for the preparation of phosphonomethyl glycine from phosphonomethyliminodiacetic acid by oxidation using a molecular oxygen gas in the presences of an active carbonaceous char.

US 5,948,938 teaches a method for the preparation of N-phosphonomethyl glycine from phosphonomethyliminodiacetic acid using hydrogen peroxide using activated charcoal or equivalent materials.

US 5,179,228 teaches a method for the preparation of phosphonomethyl glycine from phosphonomethyliminodiacetic acid using oxygen in the presence of a noble metal catalyst.

US 5,095,140 teaches a method for the preparation of phosphonomethyl glycine from phosphonomethyliminodiacetic acid usign a catayst which contatins iron, zinc, aluminum, vanadium and copper

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr J F Vollano whose telephone number is (703) 305-4483. The examiner can normally be reached on Monday to Thursday from 6:30 to 5:00 .

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter , can be reached on (703)308-4532 . The official fax phone number

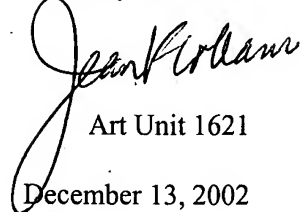
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for the organization where this application or proceeding is assigned is (703)308-4556. It should be noted that the examiner cannot immediately work on a fax sent to this number.

12. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1235.

Jean F. Vollano

Primary Examiner

A handwritten signature in black ink, appearing to read "Jean F. Vollano", is written over the printed name and title.

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December 13, 2002